

PACHULSKI STANG ZIEHL & JONES LLP

HAYWARD PLLC

*Counsel for Highland Capital Management, L.P.*

HIGHLAND CAPITAL MANAGEMENT, L.P.,

Adv. Proc. No. 21-03003-sgj

*[Decorative separator consisting of a series of small circles]*

Adv. Proc. No. 21-03004-sgj

Case No. 3:21-cv-00881-X

Defendant.

[illegible]

Adv. Proc. No. 21-03005-sgj

Case No. 3:21-cv-00881-X

Defendants.

§ § § § § § § § § §

Adv. Proc. No. 21-03006-sgj

Case No. 3:21-cv-00881-X

Defendants.

---

HIGHLAND CAPITAL MANAGEMENT, L.P.,

Plaintiff,

vs.

HCRE PARTNERS, LLC (n/k/a NexPoint  
Real Estate Partners, LLC), JAMES  
DONDERO, NANCY DONDERO, AND  
THE DUGABOY INVESTMENT TRUST,

Defendants.

---

§  
§  
§  
§  
§  
§  
§  
§  
§  
§  
§  
§

Adv. Proc. No. 21-03007-sgj

Case No. 3:21-cv-00881-X

---

**HIGHLAND CAPITAL MANAGEMENT, L.P.’S MOTION FOR LEAVE TO SUPPLEMENT  
BACKUP DOCUMENTATION IN SUPPORT OF PROPOSED JUDGMENT**

---

Highland Capital Management, L.P. (the “Plaintiff” or “Highland”), by and through its undersigned counsel, hereby files this motion (the “Motion”) to supplement its backup documentation (the “Backup Documentation”) in support of its *Notice of Attorneys’ Fees Calculation and Backup Documentation*<sup>1</sup> (the “Notice of Attorneys’ Fees”) in support of its *Proposed Form of Judgment* (the “Proposed Judgment”) in connection with the above-captioned adversary proceedings (the “Adversary Proceedings” or “Notes Litigation”).

**I. RELEVANT BACKGROUND**

1. On December 17, 2021, Plaintiff moved for summary judgment in the Adversary Proceedings against Highland Capital Management Fund Advisors, L.P. (“HCMFA”), and for partial summary judgment against James D. Dondero (“Dondero”), NexPoint Advisors, L.P. (“NexPoint”), Highland Capital Management Services, Inc. (“HCMS”), and HCRE Partners, LLC (n/k/a NexPoint Real Estate Partners, LLC) (“HCRE”) (collectively, the “Defendants”). *See* Adv.

---

<sup>1</sup> *See* Adv. Pro. No. 21-03003 at Docket No. 197; Adv. Pro. No. 21-03004 at Docket No. 169; Adv. Pro. No. 21-03005 at Docket No. 214; Adv. Pro. No. 21-03006 at Docket No. 219; and Adv. Pro. No. 21-03007 at Docket No. 214.

Proc. Nos. 21-03003-sgj at Docket No. 132;<sup>2</sup> 21-03004-sgj at Docket No. 83; 21-03005-sgj at Docket No. 131; 21-03006-sgj at Docket No. 129; and 21-03007-sgj at Docket No. 124 (collectively referred to as the “Motion for Summary Judgment”). Oral argument on the Motion for Summary Judgment was held on April 20, 2022.

2. On July 20, 2022, the Bankruptcy Court issued its *Report and Recommendation to the District Court: Court Should Grant Plaintiff’s Motion for Partial Summary Judgment Against All Five Note Maker Defendants (With Respect to All Sixteen Promissory Notes) in the Above-Referenced Consolidated Note Actions* [D. Ct. Docket No. 50-1]<sup>3</sup> (the “R&R”), in which it recommended that this Court grant the Motion for Summary Judgment against all Defendants.

3. On August 5, 2022, in accordance with the Bankruptcy Court’s directive in the R&R, Highland filed the Notice of Attorneys’ Fees with respect to, among other things, Plaintiff’s cost of collection arising from legal services provided by its lead counsel, Pachulski Stang Ziehl & Jones LLP (“PSZJ”).

4. On August 23, 2022, Defendants filed their objections to (a) the R&R<sup>4</sup> (the “R&R Objection”) and (b) the Proposed Judgment<sup>5</sup> (the “Proposed Judgment Objection”).

5. As relevant here, Defendants objected to the Proposed Judgment on the ground that, in pertinent part, there was an alleged “math error” of \$395,996.50, *see* Proposed Judgment Objection at 5-6 (the “Alleged Math Error”), and “[t]here may be a small portion of that amount

---

<sup>2</sup> Refers to the docket maintained in the United States Bankruptcy Court for the Northern District of Texas, Dallas Division (the “Bankruptcy Court”).

<sup>3</sup> Refers to the docket maintained in the District Court.

<sup>4</sup> *See* D. Ct. Docket Nos. 62 and 63.

<sup>5</sup> *See* Adv. Pro. No. 21-03003 at Docket No. 204; Adv. Pro. No. 21-03004 at Docket No. 173; Adv. Pro. No. 21-03005 at Docket No. 221; Adv. Pro. No. 21-03006 at Docket No. 226; and Adv. Pro. No. 21-03007 at Docket No. 221.

attributable to partially redacted entries for which the total was redacted, making it unduly difficult to decipher,” *id.* at 6 n. 2 (the “Relevant Objection”).

6. On September 20, 2022, Highland’s counsel emailed Defendants’ counsel in an attempt to resolve the Relevant Objection. **Morris Dec. Ex. A.**<sup>6</sup>

7. Specifically, Highland’s counsel informed Defendants’ counsel that there is no Alleged Math Error because there are two simple reasons for the discrepancy: (a) Highland inadvertently omitted from its Backup Documentation the invoices for January and February 2022, and (b) some entries were redacted because they referred to tasks unrelated to the Notes Litigation, but the unredacted time should be added up and multiplied by the hourly rate of the applicable timekeeper. **Morris Dec. Ex. A.** Highland also attached to its email, *inter alia*, the invoices for January and February 2022 (the “Supplemental Invoices”), which total \$307,493.50 (and which therefore accounts for almost 80% of the Alleged Math Error). **Morris Dec. Ex B** and **Ex. C**, respectively.

8. Highland’s counsel also proposed to stipulate to this issue in order to reduce the burden on the Court, advising Defendants’ counsel that if they did not respond by noon on Friday, September 23, 2022, Highland would move for leave to supplement the Backup Documentation with the Supplemental Invoices. **Morris Dec. Ex. A.**

9. Defendants’ counsel did not respond by September 23, 2022 (or anytime thereafter). Accordingly, Highland files the instant Motion.

---

<sup>6</sup> References to “Morris Dec.” are to the *Declaration of John A. Morris in Support of Highland Capital Management, L.P.’s Motion for Leave to Supplement Backup Documentation in Support of Proposed Judgment*, filed concurrently herewith.

## **II. RELIEF REQUESTED**

10. Highland respectfully requests leave, pursuant to Local Rule 56.7, to supplement the Backup Documentation with the Supplemental Invoices, as the Supplemental Invoices were inadvertently omitted from the Backup Documentation when the Notice of Attorneys' Fees was originally filed on August 5, 2022.

## **III. CONCLUSION**

WHEREFORE, Highland respectfully requests that the Court enter an order, substantially in the form attached hereto as **Exhibit A**, granting Highland leave to supplement its Backup Documentation with the Supplemental Invoices, and granting Highland such other and further relief it deems just and proper.

*[Remainder of Page Intentionally Blank]*

Dated: September 27, 2022.

**PACHULSKI STANG ZIEHL & JONES LLP**

Jeffrey N. Pomerantz (CA Bar No. 143717)  
John A. Morris (NY Bar No. 2405397)  
Gregory V. Demo (NY Bar No. 5371992)  
Hayley R. Winograd (NY Bar No. 5612569)  
10100 Santa Monica Blvd., 13th Floor  
Los Angeles, CA 90067  
Telephone: (310) 277-6910  
Facsimile: (310) 201-0760  
E-mail: jpomerantz@pszjlaw.com  
jmorris@pszjlaw.com  
gdemo@pszjlaw.com  
hwinograd@pszjlaw.com

- and -

**HAYWARD PLLC**

/s/ Zachery Z. Annable  
Melissa S. Hayward  
Texas Bar No. 24044908  
MHayward@HaywardFirm.com  
Zachery Z. Annable  
Texas Bar No. 24053075  
ZAnnable@HaywardFirm.com  
10501 N. Central Expy, Ste. 106  
Dallas, Texas 75231  
Telephone: (972) 755-7100  
Facsimile: (972) 755-7110

*Counsel for Highland Capital Management, L.P.*

**CERTIFICATE OF CONFERENCE**

The undersigned hereby certifies that, on September 20, 2022, counsel for Highland corresponded with counsel for Defendants regarding the relief requested in the foregoing Motion, and counsel for Defendants did not respond regarding the relief requested in the Motion.

/s/ Zachery Z. Annable  
Zachery Z. Annable